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Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JIANCHAI ZHOU,

Defendant.

No. CR 14-09-ODW

PLEA AGREEMENT FOR DEFENDANT
JIANCHAI ZHOU

1. This constitutes the plea agreement between Jianchai Zhou ("defendant") and the United States Attorney's Office for the Central District of California (the "USAO") in the above-captioned case. This agreement is limited to the USAO and cannot bind any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authorities.

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a. At the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to Count Two of the indictment in United States v. Jianchai Zhou, CR No. 14-09-ODW, which

1 charges defendant with access device fraud in violation of 18 U.S.C.
2 § 1029(a)(2).

3 b. Not contest facts agreed to in this agreement.

4 c. Abide by all agreements regarding sentencing contained
5 in this agreement.

6 d. Appear for all court appearances, surrender as ordered
7 for service of sentence, obey all conditions of any bond, and obey
8 any other ongoing court order in this matter.

9 e. Not commit any crime; however, offenses that would be
10 excluded for sentencing purposes under United States Sentencing
11 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
12 within the scope of this agreement.

13 f. Be truthful at all times with Pretrial Services, the
14 United States Probation Office, and the Court.

15 g. Pay the applicable special assessment at or before the
16 time of sentencing unless defendant lacks the ability to pay and
17 prior to sentencing submits a completed financial statement on a form
18 to be provided by the USAO.

19 THE USAO'S OBLIGATIONS

20 3. The USAO agrees to:

21 a. Not contest facts agreed to in this agreement.

22 b. Abide by all agreements regarding sentencing contained
23 in this agreement.

24 c. At the time of sentencing, move to dismiss the
25 remaining counts of the indictment as against defendant. Defendant
26 agrees, however, that at the time of sentencing the Court may
27 consider any dismissed charges in determining the applicable
28

1 Sentencing Guidelines range, the propriety and extent of any
2 departure from that range, and the sentence to be imposed.

3 d. At the time of sentencing, provided that defendant
4 demonstrates an acceptance of responsibility for the offense up to
5 and including the time of sentencing, recommend a two-level reduction
6 in the applicable Sentencing Guidelines offense level, pursuant to
7 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
8 additional one-level reduction if available under that section.

9 NATURE OF THE OFFENSE

10 4. Defendant understands that for defendant to be guilty of
11 the crime charged in Count Two, that is, access device fraud, in
12 violation of Title 18, United States Code, Section 1029(a)(2), the
13 following must be true:

14 First, the defendant knowingly used unauthorized
15 access devices at any time during a one-year period;

16 Second, by using the unauthorized access devices
17 during that period, the defendant obtained things of value,
18 their value together totaling \$1,000 or more during that
19 period;

20 Third, the defendant acted with the intent to defraud;
21 and

22 Fourth, the defendant's conduct in some way affected
23 commerce between one state and other states, or between a
24 state or the United States and a foreign country.

25 An "access device" means any card, plate, code, account number,
26 electronic serial number, mobile identification number, personal
27 identification number, or other telecommunications service,
28 equipment, or instrument identifier, or other means of account access

1 that can be used, alone or in conjunction with another access device,
2 to obtain money, goods, services, or any other thing of value, or
3 that can be used to initiate a transfer of funds (other than a
4 transfer originated solely by paper instrument).

5 An "unauthorized" access device is any access device that is
6 lost, stolen, expired, revoked, canceled, or obtained with intent to
7 defraud.

8 5. In order for defendant to be guilty of aiding and abetting
9 a crime under Title 18, United States Code, Section 2, the following
10 must be true:

11 First, the crime was committed by someone;

12 Second, the defendant knowingly and intentionally aided,
13 counseled, commanded, induced or procured that person to commit each
14 element of the charged crime; and

15 Third, the defendant acted before the crime was completed.

16 It is not enough that the defendant merely associated with the
17 person committing the crime, or unknowingly or unintentionally did
18 things that were helpful to that person, or was present at the scene
19 of the crime.

20 The defendant must have acted with the knowledge and intention
21 of helping that person commit the charged crime.

22 It is not necessary for the government to prove precisely who
23 actually committed the crime and who aided and abetted.

24 PENALTIES AND RESTITUTION

25 6. Defendant understands that the statutory maximum sentence
26 that the Court can impose for a violation of Title 18, United States
27 Code, Section 1029(a)(2), is 10 years imprisonment; a 3-year period
28 of supervised release; a fine of \$250,000 or twice the gross gain or

1 gross loss resulting from the offense, whichever is greatest; and a
2 mandatory special assessment of \$100.

3 7. Defendant understands that supervised release is a period
4 of time following imprisonment during which defendant will be subject
5 to various restrictions and requirements. Defendant understands that
6 if defendant violates one or more of the conditions of any supervised
7 release imposed, defendant may be returned to prison for all or part
8 of the term of supervised release authorized by statute for the
9 offense that resulted in the term of supervised release, which could
10 result in defendant serving a total term of imprisonment greater than
11 the statutory maximum stated above.

12 8. Defendant understands that defendant will be required to
13 pay full restitution to the victim(s) of the offense to which
14 defendant is pleading guilty. Defendant agrees that, in return for
15 the USAO's compliance with its obligations under this agreement, the
16 Court may order restitution to persons other than the victim(s) of
17 the offenses to which defendant is pleading guilty and in amounts
18 greater than those alleged in the count to which defendant is
19 pleading guilty. In particular, defendant agrees that the Court may
20 order restitution to any victim of any of the following for any
21 losses suffered by that victim as a result: (a) any relevant conduct,
22 as defined in U.S.S.G. § 1B1.3, in connection with the offenses to
23 which defendant is pleading guilty; and (b) any counts dismissed
24 pursuant to this agreement as well as all relevant conduct, as
25 defined in U.S.S.G. § 1B1.3, in connection with those counts.
26 Defendant understands, but reserves the right to contest, that the
27 government contends that the applicable amount of restitution is
28 approximately \$345,000, but recognizes and agrees that this amount

1 could change based on facts that come to the attention of the parties
2 prior to sentencing.

3 9. Defendant understands that, by pleading guilty, defendant
4 may be giving up valuable government benefits and valuable civic
5 rights, such as the right to vote, the right to possess a firearm,
6 the right to hold office, and the right to serve on a jury.
7 Defendant understands that once the court accepts defendant's guilty
8 plea, it will be a federal felony for defendant to possess a firearm
9 or ammunition. Defendant understands that the conviction in this
10 case may also subject defendant to various other collateral
11 consequences, including but not limited to revocation of probation,
12 parole, or supervised release in another case and suspension or
13 revocation of a professional license. Defendant understands that
14 unanticipated collateral consequences will not serve as grounds to
15 withdraw defendant's guilty plea.

16 10. Defendant understands that, if defendant is not a United
17 States citizen, the felony conviction in this case may subject
18 defendant to: removal, also known as deportation, which may, under
19 some circumstances, be mandatory; denial of citizenship; and denial
20 of admission to the United States in the future. The court cannot,
21 and defendant's attorney also may not be able to, advise defendant
22 fully regarding the immigration consequences of the felony conviction
23 in this case. Defendant understands that unexpected immigration
24 consequences will not serve as grounds to withdraw defendant's guilty
25 plea.

26 FACTUAL BASIS

27 11. Defendant admits that defendant is, in fact, guilty of the
28 offense to which defendant is agreeing to plead guilty. Defendant

1 and the USAO agree to the statement of facts provided below and agree
 2 that this statement of facts is sufficient to support a plea of
 3 guilty to the charge described in this agreement and to establish the
 4 Sentencing Guidelines factors set forth in paragraph 13 below but is
 5 not meant to be a complete recitation of all facts relevant to the
 6 underlying criminal conduct or all facts known to either party that
 7 relate to that conduct.

8 From on or about March 10, 2011, through November 9, 2011,
 9 defendant Jianchai Zhou used unauthorized access devices, that is,
 10 fraudulent credit cards that had defendant's name printed on them and
 11 encoded with the account information of victim card holders, which
 12 were used without the authorization of those account holders or the
 13 issuing banks. Defendant used those cards to purchase goods with a
 14 value of \$1,000 or more. By using the unauthorized devices during
 15 that time period, as described below, defendant obtained things of
 16 value at Nordstrom department stores in California, their value
 17 together totaling \$1,000 or more during that period.

18	DATE	TIME	STORE	REGISTER	TRANS- ACTION	CASHIER	AMOUNT	ACCOUNT NUMBER (LAST FOUR DIGITS)
19								
20	3/10/11	1412	349	9118	3473	8171290	\$1,113.96	-0749
21	04/04/11	1606	345	1459	6055	8798134	\$598.14	-6628
22	04/04/11	1609	345	1459	6056	8798134	\$504.85	-6628
23	05/24/11	1559	342	2291	5674	8561242	\$629.97	-5917
24	05/24/11	1608	342	2246	1689	7208515	\$976.78	-5917
25								

26 At the time defendant used the above-listed credit cards to
 27 purchase these goods, defendant knew that she was using unauthorized
 28

credit cards to purchase goods and acted with the intent to defraud. These transactions affected interstate and foreign commerce in that the credit card transactions were processed by financial institutions both outside the United States and in states other than the California Nordstrom department stores.

SENTENCING FACTORS

12. Defendant understands that in determining defendant's sentence the Court is required to calculate the applicable Sentencing Guidelines range and to consider that range, possible departures under the Sentencing Guidelines, and the other sentencing factors set forth in 18 U.S.C. § 3553(a). Defendant understands that the Sentencing Guidelines are advisory only, that defendant cannot have any expectation of receiving a sentence within the calculated Sentencing Guidelines range, and that after considering the Sentencing Guidelines and the other § 3553(a) factors, the Court will be free to exercise its discretion to impose any sentence it finds appropriate up to the maximum set by statute for the crime of conviction.

13. Defendant and the USAO agree to the following applicable Sentencing Guidelines factors:

DESCRIPTION	LEVELS	CITATION
Base offense level:	6	2B1.1
Possession or use of any authentication feature	2	2B1.1(b)(11)

Defendant and the USAO reserve the right to argue that additional specific offense characteristics (including an enhancement for loss up to \$400,000, under U.S.S.G. § 2B1.1(b)(1), and number of victims,

1 under U.S.S.G. § 2B1.1(b)(2)), adjustments, and departures under the
2 Sentencing Guidelines are appropriate.

3 14. Defendant understands that there is no agreement as to
4 defendant's criminal history or criminal history category.

5 15. Defendant and the USAO reserve the right to argue for a
6 sentence outside the sentencing range established by the Sentencing
7 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
8 (a)(2), (a)(3), (a)(6), and (a)(7).

9 WAIVER OF CONSTITUTIONAL RIGHTS

10 16. Defendant understands that by pleading guilty, defendant
11 gives up the following rights:

- 12 a. The right to persist in a plea of not guilty.
- 13 b. The right to a speedy and public trial by jury.
- 14 c. The right to be represented by counsel - and if
15 necessary have the court appoint counsel -- at trial. Defendant
16 understands, however, that, defendant retains the right to be
17 represented by counsel - and if necessary have the court appoint
18 counsel - at every other stage of the proceeding.
- 19 d. The right to be presumed innocent and to have the
20 burden of proof placed on the government to prove defendant guilty
21 beyond a reasonable doubt.
- 22 e. The right to confront and cross-examine witnesses
23 against defendant.
- 24 f. The right to testify and to present evidence in
25 opposition to the charges, including the right to compel the
26 attendance of witnesses to testify.
- 27
- 28

1 g. The right not to be compelled to testify, and, if
2 defendant chose not to testify or present evidence, to have that
3 choice not be used against defendant.

4 h. Any and all rights to pursue any affirmative defenses,
5 Fourth Amendment or Fifth Amendment claims, and other pretrial
6 motions that have been filed or could be filed.

7 WAIVER OF APPEAL OF CONVICTION

8 17. Defendant understands that, with the exception of an appeal
9 based on a claim that defendant's guilty plea were involuntary, by
10 pleading guilty defendant is waiving and giving up any right to
11 appeal defendant's conviction on the offense to which defendant is
12 pleading guilty.

13 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

14 18. Defendant agrees that, provided the Court imposes a total
15 term of imprisonment on all counts of conviction of no more than 30
16 months, defendant gives up the right to appeal all of the following:
17 (a) the procedures and calculations used to determine and impose any
18 portion of the sentence; (b) the term of imprisonment imposed by the
19 Court; (c) the fine imposed by the court, provided it is within the
20 statutory maximum; (d) the amount and terms of any restitution order;
21 (e) the term of probation or supervised release imposed by the Court,
22 provided it is within the statutory maximum; and (f) any of the
23 following conditions of probation or supervised release imposed by
24 the Court: the conditions set forth in General Orders 318, 01-05,
25 and/or 05-02 of this Court; and the drug testing conditions mandated
26 by 18 U.S.C. §§ 3563(a)(5) and 3583(d).

27 19. The USAO agrees that, provided (a) all portions of the
28 sentence are at or below the statutory maximum specified above and

1 (b) the Court imposes a term of imprisonment of no less than 46
2 months, the USAO gives up its right to appeal any portion of the
3 sentence ,with the exception that the USAO reserves the right to
4 appeal the following: (a) the amount of restitution ordered.

5 RESULT OF WITHDRAWAL OF GUILTY PLEA

6 20. Defendant agrees that if, after entering a guilty plea
7 pursuant to this agreement, defendant seeks to withdraw and succeeds
8 in withdrawing defendant's guilty plea on any basis other than a
9 claim and finding that entry into this plea agreement was
10 involuntary, then (a) the USAO will be relieved of all of its
11 obligations under this agreement; and (b) should the USAO choose to
12 pursue any charge that was either dismissed or not filed as a result
13 of this agreement, then (i) any applicable statute of limitations
14 will be tolled between the date of defendant's signing of this
15 agreement and the filing commencing any such action; and
16 (ii) defendant waives and gives up all defenses based on the statute
17 of limitations, any claim of pre-indictment delay, or any speedy
18 trial claim with respect to any such action, except to the extent
19 that such defenses existed as of the date of defendant's signing this
20 agreement.

21 EFFECTIVE DATE OF AGREEMENT

22 21. This agreement is effective upon signature and execution of
23 all required certifications by defendant, defendant's counsel, and an
24 Assistant United States Attorney.

25 BREACH OF AGREEMENT

26 22. Defendant agrees that if defendant, at any time after the
27 signature of this agreement and execution of all required
28 certifications by defendant, defendant's counsel, and an Assistant

1 United States Attorney, knowingly violates or fails to perform any of
2 defendant's obligations under this agreement ("a breach"), the USAO
3 may declare this agreement breached. All of defendant's obligations
4 are material, a single breach of this agreement is sufficient for the
5 USAO to declare a breach, and defendant shall not be deemed to have
6 cured a breach without the express agreement of the USAO in writing.
7 If the USAO declares this agreement breached, and the Court finds
8 such a breach to have occurred, then: (a) if defendant has previously
9 entered a guilty plea pursuant to this agreement, defendant will not
10 be able to withdraw the guilty plea, and (b) the USAO will be
11 relieved of all its obligations under this agreement.

12 23. Following the Court's finding of a knowing breach of this
13 agreement by defendant, should the USAO choose to pursue any charge
14 that was either dismissed or not filed as a result of this agreement,
15 then:

16 a. Defendant agrees that any applicable statute of
17 limitations is tolled between the date of defendant's signing of this
18 agreement and the filing commencing any such action.

19 b. Defendant waives and gives up all defenses based on
20 the statute of limitations, any claim of pre-indictment delay, or any
21 speedy trial claim with respect to any such action, except to the
22 extent that such defenses existed as of the date of defendant's
23 signing this agreement.

24 c. Defendant agrees that: (i) any statements made by
25 defendant, under oath, at the guilty plea hearing (if such a hearing
26 occurred prior to the breach); (ii) the agreed to factual basis
27 statement in this agreement; and (iii) any evidence derived from such
28 statements, shall be admissible against defendant in any such action

1 against defendant, and defendant waives and gives up any claim under
2 the United States Constitution, any statute, Rule 410 of the Federal
3 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
4 Procedure, or any other federal rule, that the statements or any
5 evidence derived from the statements should be suppressed or are
6 inadmissible.

7 COURT AND PROBATION OFFICE NOT PARTIES

8 24. Defendant understands that the Court and the United States
9 Probation Office are not parties to this agreement and need not
10 accept any of the USAO's sentencing recommendations or the parties'
11 agreements to facts or sentencing factors.

12 25. Defendant understands that both defendant and the USAO are
13 free to: (a) supplement the facts by supplying relevant information
14 to the United States Probation Office and the Court, (b) correct any
15 and all factual misstatements relating to the Court's Sentencing
16 Guidelines calculations and determination of sentence, and (c) argue
17 on appeal and collateral review that the Court's Sentencing
18 Guidelines calculations and the sentence it chooses to impose are not
19 error, although each party agrees to maintain its view that the
20 calculations in paragraph 13 are consistent with the facts of this
21 case. While this paragraph permits both the USAO and defendant to
22 submit full and complete factual information to the United States
23 Probation Office and the Court, even if that factual information may
24 be viewed as inconsistent with the facts agreed to in this agreement,
25 this paragraph does not affect defendant's and the USAO's obligations
26 not to contest the facts agreed to in this agreement.

27 26. Defendant understands that even if the Court ignores any
28 sentencing recommendation, finds facts or reaches conclusions

1 different from those agreed to, and/or imposes any sentence up to the
2 maximum established by statute, defendant cannot, for that reason,
3 withdraw defendant's guilty plea, and defendant will remain bound to
4 fulfill all defendant's obligations under this agreement. Defendant
5 understands that no one -- not the prosecutor, defendant's attorney,
6 or the Court -- can make a binding prediction or promise regarding
7 the sentence defendant will receive, except that it will be within
8 the statutory maximum.

9 NO ADDITIONAL AGREEMENTS

10 27. Defendant understands that, except as set forth herein,
11 there are no promises, understandings, or agreements between the USAO
12 and defendant or defendant's attorney, and that no additional
13 promise, understanding, or agreement may be entered into unless in a
14 writing signed by all parties or on the record in court.

15 //

16 //


PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

28. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA

STEPHANIE YONEKURA
Acting United States Attorney



RONALD CHENG
Assistant United States Attorney

August 25, 2014

Date

JIANCHAI ZHOU
Defendant

Date

GEORGINE WAKEFIELD
DEPUTY FEDERAL PUBLIC DEFENDER
Attorney for Defendant
JIANCHAI ZHOU

Date

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AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA

STEPHANIE YONEKURA
Acting United States Attorney

RONALD CHENG
Assistant United States Attorney

Date

Zhou Jian cheng

8/21/14

JIANCHAI ZHOU
Defendant

Date

Georgina Wakefield

8/21/14

GEORGINA WAKEFIELD
DEPUTY FEDERAL PUBLIC DEFENDER
Attorney for Defendant
JIANCHAI ZHOU

Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. This agreement has been read to me in Mandarin Chinese, the language I understand best. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

Zhou Jian Chai
JIANCHAI ZHOU
Defendant

8/21/14
Date

CERTIFICATION OF INTERPRETER

I, Michael Yu Zhu, am fluent in the written and spoken English and Mandarin Chinese languages. I accurately translated this entire agreement from English into Mandarin Chinese to defendant Jianchai Zhou on this date.




INTERPRETER

08/21/14

Date

1 CERTIFICATION OF DEFENDANT'S ATTORNEY

2 I am Jianchai Zhou's attorney. I have carefully and thoroughly
3 discussed every part of this agreement with my client. Further, I
4 have fully advised my client of her rights, of possible pretrial
5 motions that might be filed, of possible defenses that might be
6 asserted either prior to or at trial, of the sentencing factors set
7 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
8 provisions, and of the consequences of entering into this agreement.
9 To my knowledge: no promises, inducements, or representations of any
10 kind have been made to my client other than those contained in this
11 agreement; no one has threatened or forced my client in any way to
12 enter into this agreement; my client's decision to enter into this
13 agreement is an informed and voluntary one; and the factual basis set
14 forth in this agreement is sufficient to support my client's entry of
15 a guilty plea pursuant to this agreement.

16 
17 _____
18 GEORGINA WAKEFIELD
19 DEPUTY FEDERAL PUBLIC DEFENDER
20 Attorney for Defendant
21 JIANCHAI ZHOU
22
23
24
25
26
27
28

8/21/14

Date